K 1943

File No. B. Coop Societies /42

Legal Deptt

B **BRANCH**

Subject:—

Journal's Ref. No. of 1942

A Bill to amend the Bombay Cooperative Societies Act, 1925.

(Amendt of S.S. 54 and 59 and Insertion of new S. 59B)

(Bom. XVI of 1943)

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F.

File No B Coop Societies 1.3

Gen. 194 e.

(Bom XVI of 1943)
497 S.

A revised draft is appended.

2. The provision contained in clause 4(2) of the Revenue Department draft Bill for the recovery of the dues of the land mortgage bank has been made in a new section 59B at the end of Chapter VIII, inserted by clause 4 of the Bill. This section provides that notwithstanding anything contained in sections 54 and 59, on an application by a land mortgage bank and on frunishing a statement of accounts, the Registrar may issue a certificate for the recovery of the arrears due to the bank and they shall then be recovered according to the law for the time being in force for the recovery of land revenue.

3. The definition of 'land mortgage bank' contained in clause 2 of the Revenue Department draft Bill - has been included as an explanation to section 59B in clause 4 Presumably, all land mortgage banks are started after the Bombay Co-operative Societies, Act, 1925 - came into force and are all registered under this Act. The Words " deemed to be registe red " in the Revenue Department draft of the definition are, therefore, unnecessary and have been deleted in the revised draft.

4. The subject-matter of the Bill falls under entry 33 in the Provincial Legislative List and entry 11 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. As the provisions of clauses 2 and 4 of the Bill are repugnant to the provisions contained in section 54 of the - Bombay Co-operative Societies Act, 1925, which is an - existing Indian law reletng to entry 11 in the Concurrent Legislature List, it will be necessary to reserve the Bill for the consideration of the Governor-General under section 107(2) of the Government of India Act read with

Paragraph .....

Paragraph (2) of the Proclamation.

5. A revised Statement is also appended.

Id/- P. N. M.
13/8

Remembrancer of Legal Affairs.

U.R. to R.D., No. 6575, dated the 13th August 1942.

SSD.
16.7.56. 4c.

Legal Department.

The Explanation to new section 59-B inserted by clause 4 of the Bill supplied to R.D. under this office R.R. No. 6575, dated 13th August 1942 defined a land mortgage bank as meaning a co-operative land mortgage bank which is registered under the Act and is a member of the Bombay Provincial Co-operative Land Mortgage Bank Limited. This Explanation was based on clause 2 of the R.D. draft Bill (p. 134) in which a land mortgage bank was defined as meaning a co-operative land mortgage bank registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925 and admitted as member of the Provincial Co-operative Land Mortgage Bank Ltd. The Explanation to the new section 59-B which has been now revised by R.D. omits the reference to registration. Unless R.D. has any objection the reference to registration, as originally proposed, may be restored by inserting the words " registered under this Act and is" after the words "which is " in the Explanation to new section 59-B.

Id/- P. N. M.
16/11

Secretary to Government.

U.R. to R.D., No. 8491, dated the 17th November 1943,

SSD.
16/7/1956. 4c.

No. 8729
Legal Department.
Bombay Castle, 25th November 1943.

From
P.N. Moos, Esquire, Bar-at-Law, I.C.S.,
Secretary to the Government of Bombay

To
The Secretary to the Governor of Bombay.

Subject :- A Bill to amend the Bombay Co-operative Societies Act, 1925.

Sir,

With reference to your memorandum No. 201(74) dated the 9th October 1943, addressed to the Revenue Department, on the above subject, I am directed to forward herewith a copy of the Bill to amend the Bombay Co-operative Societies Act, 1925, prepared by His Excellency the Governor of Bombay under para - graph (2) of the Proclamation dated 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill effects any special responsibility of the Governor under section 52 (1) of the Government of India Act, 1935, or falls within the pruview of clause (a), (b), (c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject-matter of the Bill falls under entry 33 in the Provincial Legislative List and entry 11 in the Concurrent Legisla-tive List in the Seventh Schedule to the Government of India Act, 1935. As the Provisions of clauses 2 and 4 of the Bill are - repugnant to the provisions contained in section 54 of the Bombay Co-operative Societies Act, 1925, which is an existing Indian law relating to entry 11 in the Concurrent Legislative List, it will be necessary to reserve the Bill for the consideration of the Governor-General under section 107 (2) of the Government of India Act read with paragraph (2) of the Proclamation.

4. I also forward herewith six spare copies of the Bill out of which five copies are for transmission to the Secretary to the Governor General (Public).

Your obedient servant,

Id/- P. N. M.
25/11

Secretary to Government,
Legal Department.

Through
The Secretary to Government,
Revenue Department.

SSD.
16.7.56. 4c.

No. 201(74)

Office of the Governor's Secretary
Government House,
Bombay, 29th December 1943.

From

D. Symington, Esquire, CIE. ICS.
Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department, Bombay.

Subject :- The Bombay Co-operative Societies (Amendment) Bill, 1943.

Sir,

With reference to your letter No. 8729, dated 25th November 1943, on the above subject, I am directed to forward herewith the copy of the Bombay Co-operative Societies (Amendment) Bill, 1943, with His Excellency the Governor-General's assent signified thereon.

2. The Secretary to the Governor-General (Public) observes that the Notification No. 321-I, dated the 15th May 1929, of the Government of India in the Foreign and Political Department mentioned in the Statement forwarded along with the Bill appears to have been superseded by the Bombay Government's Home Department Notification No. 6227/4-(1), dated the 21st August 1942. It is accordingly suggested that for the words "Under the Government of India Notification in the Foreign and Politicial Department No. 321-I, dated the 15th May 1929", in the Statement, the words "By mutual agreement with Indian States" might be substituted.

Your obedient servant,

Id/- .....

For Secretary to the Governor of Bombay.

SSD.
16.7.56. 4c.

Acts.

Publication of the Bombay Co-operative Societies (Amendment) Act, 1943.

GOVERNMENT OF BOMBAY

Legal Department.
Resolution No. 9559
Bombay Castle, 30th December 1943.

Letter to the Secretary to the Governor, No. 8729 dated the 25th November 1943.

Letter from the Secretary to the Governor, No. 201(74) dated the 29th December 1943.

"With reference to your letter No. 8729, dated 25th November 1943, on the above subject, I am directed, to forward herewith the copy of the Bombay Co-operative Societies (Amendment) Bill, 1943, with His Excellency the Governor-General's assent signified thereon.

2. * * *"

RESOLUTION :- The law should be published as Bombay Act No. XVI of 1943 in the Bombay Government Gazette dated the 30th December 1943.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu Devanagari scripts and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay,

Sd/- K. M. Chitnivis.

P. N. MOOS,
For Secretary to Government.

To

The Manager, Government Central Press, Bombay, (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).
The Revenue Department;) With a copy of the Act.
* The Oriental Translator to Government;)
The Secretary to the Bombay Legislative Council,)
The Secretary to the Bombay Legislative Assembly.))

* With five extra copies.

SSD.
16.7.56. 4c.

43 57

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

THURSDAY, 30TH DECEMBER 1943.

Separat paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

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BOMBAY ACT No. XVI OF 1943—An Act to amend the Bombay Co-operative Societies Act, 1925	277 - 279

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 1 th December 1943, is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XVI OF 1943.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 30th December 1943.)

An Act to amend the Bombay Co-operative Societies Act, 1925.

Bom. VII of 1925.

WHEREAS it is expedient to amend the Bombay Co-operative Societies Act, 1925, for the purposes hereinafter appearing ;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

Short title.

1. This Act may be called the Bombay Co-operative Societies (Amendment) Act, 1943.

Amendment of section 54 of Bom. VII of 1925.

2. In section 54 of the Bombay Co-operative Societies Act, 1925, hereinafter called the said Act, after the words " of the society " where they occur for the second and third times, the words ", past or present," shall be inserted. Bom. VII of 1925.

Amendment of section 59 of Bom. VII of 1925.

3. In section 59 of the said Act, in sub-section (*1*) for the portion beginning with the words " be executed " and ending with the brackets and letter " (*b*) " the following shall be substituted, namely :—

"(*a*) on a certificate signed by the Registrar or a liquidator, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such Court ; or

(*b*) be executed "

Insertion of new section 59-B in Bom. VII of 1925.

4. After section 59-A of the said Act, the following new section shall be inserted, namely :—

Recovery of moneys due to land mortgage bank.

" 59-B. (*1*) Notwithstanding anything contained in sections 54 and 59, on an application made by a land mortgage bank for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(*2*) A certificate granted by the Registrar under sub-section (*1*) shall be final and conclusive. The arrears stated to be due therein shall be recoverable according to the law for the time being in force for the recovery of land revenue.

(*3*) It shall be lawful for the Collector to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code, 1879, until the arrears due to the land mortgage bank together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar. Bom. V of 1879.

Explanation.—For the purposes of this section a land mortgage bank means the Bombay Provincial Co-operative Land Mortgage Bank or any other co-operative land mortgage bank which is registered under this Act and is a member of that bank."

STATEMENT.

The objects of the Act are explained in the following notes on clauses :—

NOTES ON CLAUSES.

Clause 2.—At present there is no provision in the Bombay Co-operative Societies Act, 1925, to take proceedings in arbitration when there is a dispute between a member and any past officer, agent or servant of a Society or when there is a dispute between the Society or its committee and any past officer, agent, member or servant of such Society. It is proposed to remedy this defect.

Clause 3.—Under section 59 (*1*) of the Act, an award or order can be executed by a Civil Court in the same manner as the decree of such Court. An award or order is not, however, in itself a decree. By mutual agreement with Indian States, a decree of the Civil Court or a Revenue Court is executable in the Indian States but not any award or order made under the Act, although it is executable in any Civil Court in the Province in the same manner as a decree of that Court. This involves considerable hardship and a Society is unable to proceed against the persons who leave British India and go to Indian States. It is proposed to amend section 59 (*1*) so as to give arbitration awards or liquidators' orders the status of a decree.

Clause 4.—Land mortgage Banks, unlike other Co-operative Societies and Banks, derive the bulk of their funds from debentures guaranteed by Government both in respect of principal and interest, and it is therefore necessary that defaulted instalments of these banks should be recovered promptly. The present procedure for the settlement and recovery of these dues is cumbrous. It is, therefore, considered necessary to provide for a summary procedure for settlement and recovery of these dues. It is also considered necessary to take precautionary measures provided in Chapter XI of the Bombay Land Revenue Code, 1879, for the recovery of these dues.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

"True copy - Original papers being of bad quality - Destroyed".

K.V. Velankar

Superintendent,
D Branch, Legal Department.

B. Copy

6-1-44